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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09/652,548	08/31/2000	Chad J. Kugler	TER1001USD1	6553
75	590 12/02/2003		EXAM	INER
Thomas E Pop	povich Esq		MATTHEWS,	WILLIAM H
Popovich & Wi	lles PA			
Suite 1902 IDS	Center		ART UNIT	PAPER NUMBER
80 South 8th St	h Street 3738			

DATE MAILED: 12/02/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)	4				
	09/652,548	KUGLER ET AL.					
Office Action Summary	Examiner	Art Unit					
	William H. Matthews (Howie)	3738					
The MAILING DATE of this communication a Period for Reply	ppears on the cover sheet with the	correspondence address					
A SHORTENED STATUTORY PERIOD FOR REP THE MAILING DATE OF THIS COMMUNICATION - Extensions of time may be available under the provisions of 37 CFR after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a re - If NO period for reply is specified above, the maximum statutory perio - Failure to reply within the set or extended period for reply will, by state - Any reply received by the Office later than three months after the mail earned patent term adjustment. See 37 CFR 1.704(b). Status	I. 1.136(a). In no event, however, may a reply be t eply within the statutory minimum of thirty (30) da id will apply and will expire SIX (6) MONTHS froi ute, cause the application to become ABANDON	imely filed ys will be considered timely. n the mailing date of this communication ED (35 U.S.C. § 133).	ı.				
1) Responsive to communication(s) filed on 17	September 2003.						
2a)⊠ This action is FINAL . 2b)☐ Th	is action is non-final.						
3) Since this application is in condition for allow closed in accordance with the practice under			;				
Disposition of Claims							
4)⊠ Claim(s) <u>37-43,45 and 46</u> is/are pending in t	he application.						
4a) Of the above claim(s) is/are withdo	rawn from consideration.						
5) Claim(s) is/are allowed.							
6)⊠ Claim(s) <u>37-43,45,46</u> is/are rejected. 7)□ Claim(s) is/are objected to.							
8) Claim(s) are subject to restriction and	l/or election requirement.						
Application Papers	·						
9)☐ The specification is objected to by the Exami	ner.						
10) The drawing(s) filed on is/are: a) a	ccepted or b) objected to by the	Examiner.					
Applicant may not request that any objection to the							
Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the	· · · · · · · · · · · · · · · · · · ·	•	3).				
Priority under 35 U.S.C. §§ 119 and 120	Examiner. Note the attached office	10 7 TOLON OF TONNEY TO 102.					
12) Acknowledgment is made of a claim for fore	ign priority under 35 U.S.C. § 119	(a)-(d) or (f).					
a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority docume	ents have been received.	•					
 2. Certified copies of the priority docume 3. Copies of the certified copies of the priority application from the International Bure 	ents have been received in Applicationity documents have been receive						
* See the attached detailed Office action for a li	st of the certified copies not receive						
13) Acknowledgment is made of a claim for dome since a specific reference was included in the 37 CFR 1.78.							
a) The translation of the foreign language	• •						
14) ☐ Acknowledgment is made of a claim for dome reference was included in the first sentence of		•					
Attachment(s)							
1) Notice of References Cited (PTO-892)		ry (PTO-413) Paper No(s)					
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s	5) Notice of Informal	Patent Application (PTO-152)					
-,ormation bisologuie statement(s) (F10-1448) Faper No(S	, 0) [_] Other						

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Response to Arguments

1. Applicant's arguments filed 9-17-03 have been fully considered but they are not persuasive.

With regard to Marcade et al, Applicant contends Marcade lacks a one-piece structure and a plurality of stents. Examiner disagrees because figure 8 and lines 55-57 of col. 21 describe combining multiple graft segments into a single graft. Lines 5-13 of col. 21 describe using multiple stents in place of a single stent.

With regard to the rejections under 35 U.S.C 103(a), applicant relies on the issues explained above.

Claim Objections

1. Claims 45 is objected to because of the following informalities: in line 2, "he" should be replaced with ---the---. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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3. Claims 37-40 and 46 are rejected under 35 U.S.C. 102(e) as being anticipated by Marcade et al. US PN 5,993,481.

Marcade et al. discloses in figures 1-10 multiple graft system embodiments and delivery systems.

Regarding claims 37-40 Figure 8 shows a single piece graft having larger ends and stents located along the entire length. Furthermore, lines 55-57 of col. 21 disclose combining multiple graft components into a single unitary component and lines 5-13 of col. 21 describe replacing a single stent with multiple stents.

Regarding claim 46, Figures 3a-3J and 9-10 disclose a method of implanting two graft segments telescopically wherein the inner portion of the delivery system has a transition element (518).

Claim Rejections - 35 USC § 103

- 4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 5. Claims 41-43,45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marcade et al. US PN 5,993,481 as applied to claims 37 and 40 above, and in further view of Fogarty et al. US PN 6,123,722.

Marcade et al. discloses in figure 8 a graft system meeting the structural limitations of claims 41-45 but lacks the express written disclosure of including a bellows

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region in the middle portion of the graft system. Fogarty et al. teaches in figure 7B and lines 48-55 of column 18 graft systems that may comprise bellows regions for modifying the length of the graft system.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the graft disclosed by Marcade et al. by including a bellows region in order to provide adjustable length to the graft as taught by Fogarty et al.

6. Claims 37-43,45-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fogarty et al. US PN 6,123,722 in view of Marcade et al. US PN 5,993,481.

With regard to claims 37-43 and 45-46, Fogarty et al. discloses in figure 3 a tubular graft component with first and second ends (68,70) of larger diameter than the middle portion (64), a length adjustable middle and stents in both the first and second ends. The length adjustable middle can comprise a bellows region (column 18, lines 48-55 and figure 7B). Furthermore, figure 4 shows various middle regions having independent stents located at the ends, the stents shown in detail in figures 3B and 3C.

With regard to claim 46, Fogarty et al. discloses a catheter system (figure 2) for deploying first and second graft segments (see column 11, lines 44-50) in a telescoping manner (see figures 3-4).

Fogarty et al. fails to disclose a transition element having a tapered portion located substantially between the first and second graft portions and that the modular components of the graft system can be formed as a single piece graft. Marcade et al. teaches graft systems in figures 2,8 and lines 55 of col. 21 through line 6 of col. 22 (for

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single piece graft) and figures 3a-3j and 9-10 (for tapered portion) in order to eliminate the need to deliver multiple grafts and to assist implantation of the second graft, respectively.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the graft disclosed by Fogarty et al. by using a single piece graft and a tapered portion in order to eliminate the need to deliver multiple grafts and to assist implantation of the second graft, respectively as taught by Marcade et al.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Matthews (Howie) whose telephone number

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is 703-305-0316. The examiner can normally be reached on Mon-Fri 7:00-4:30 (Every

other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine M. McDermott can be reached on 703-308-2111. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-2708 for regular communications and (703) 305-3590 for After Final

communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

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WHM

November 30, 2003

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